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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,571	04/21/2006	Denis Montagutelli	052541	2303
38834 7590 12/30/2008 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
			EXAMINER FERGUSON SAMRETH, MARISSA LIANA	
			ART UNIT 2854	PAPER NUMBER
			MAIL DATE 12/30/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,571

Applicant(s)

MONTAGUTELLI, DENIS

Examiner

MARISSA L. FERGUSON-SAMRETH

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
4a) Of the above claim(s) 3-14, 16, 17 and 19-26 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 12, 15 and 18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 03 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/3/05
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group 1 in the reply filed on 8/25/08 is acknowledged. The traversal is on the ground(s) that US 5,717,836 does not disclose the technical features is not found persuasive because many of the technical features pointed out by applicant are not positively recited in the claims such as "a second motorized means". Also, the examiner has used a different "X" as stated in the previous detailed action. The examiner still finds the restriction proper due to the divergent, mutually exclusive subject matter recited in each of the indicated groups, separate searches for each invention are required, thereby creating a burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 3-14, 16 and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/25/08.
3. Due to the election of Group 1 and the newly added claims 18 and 19, the examiner called Attorney Seckel to make an election between claims 18 and 19. Applicant elected claim 18 without traverse on 11/24/08.
4. Newly added claims 19-26 if originally presented would resort in additional groups not linked as to form a single general inventive concept under PCT Rule 13. For instance, the inventions as claimed lack unity, i.e., the invention of Group 1, 2,15 is

directed to a cutting member, maintaining a band under tension of an arm while the invention of newly formed group 1, 2 and 20 is directed to a flatness defect detection sensor. Therefore, claims 19-26 will not be treated.

Information Disclosure Statement

5. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "second motorized positive driving means of the band located inside the reserve chamber" must be shown or the feature(s) canceled from the claim(s) (**Note: the second motorized means (11, 12) appear to be located outside the chamber**). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

7. Claim 1 is objected to because of the following informalities: "allow user's" in line 5 should be replaced with --allow the user--. Appropriate correction is required.
8. Claim 1 recites the limitation "the portion" in line 5, "the delivery mouth" in lines 6 and 11, "the speeds" in line 13, "the reserve chamber" in line 15. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 1 is objected to because of the following informalities: "such a" in line 6 should be replaced with - -said--. Appropriate correction is required.
10. Claim 2 is objected to because of the following informalities: the applicant recites the limitation "the member" in lines 4- 5, however, it is not clear which member applicant is referring, "the cutting member" or "the mobile member".
11. Claim 2 is objected to because of the following informalities: "]" in line 4 should be deleted. Appropriate correction is required.

12. Claim 15 recites the limitation "the printed arm" in line 3. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 15 is objected to because of the following informalities: recites "the member" in line 1, however, it is not clear which member applicant is referring, "the cutting member" or "the mobile member". Appropriate correction is required.

Claim Rejections - 35 USC § 112

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,2, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

15. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

16. Specifically, regarding claim 15, the claim reads "opposing a tension applied by the printed arm to the arm". The claim is unclear. Are there two arms in the device or just one arm?

Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

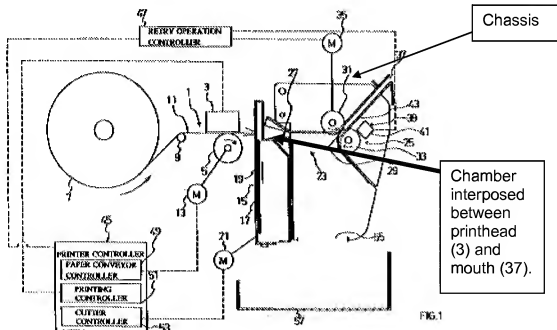
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki (US Patent 6,056,460).

Suzuki teaches a first motorized means (5) for driving a printable band packaged into a roll, from a reserve to a printing head (3; Figure 1), said device being arranged in order to allow user access to the portion of band during printing by circulating through a delivery mouth (37) during the printing process thereof, such a device comprising mainly a chassis (refer to figure in the detailed action) fitted with a mouth (37) for delivering the voucher for the user and connected to the printing mechanism (Figure 1), a chamber (refer to figure in the detailed action) storing a portion of band during printing, which is interposed between the printing mechanism and the delivery mouth (refer to figure in the detailed action), optionally, a cutting member (19) for the separation of the voucher beyond the band, further comprising means for slaving the speeds (45) driving the band during printing, driving the band jointly by the first motorized means (5) and by a second motorized positive driving means (31, 33) for causing simultaneous and regulated implementation of the first and second driving means relative to one another (note: the language is functional language, therefore the driving means indicated has the capability of performing the intended function), the implementation of the slaving means being placed under the control of means for detecting the position of an elastic mobile member for maintaining under tension the band inside the reserve chamber, opposing the driving thereof by the second driving means, a position which varies according to the relative driving speeds of the band, respectively by the first and by the second

driving means (note: the language is functional language and an elastic mobile member is not positively claimed, therefore the slaving means (45) has the capability of maintaining the position of the band due to the speeds of the band).

Regarding claim 2, Suzuki teaches wherein the cutting member (19) is arranged inside the reserve chamber in a fixed position relative to the mobile member maintaining the band under tension (note: the mobile member is not positively recited), the voucher being separated by positive driving of the band by the second motorised means 31, 33) towards the cutting member, opposing the elastic mobility of the member maintaining the band under tension.



Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (US Patent 6,056,46) in view of St. Germain et al. (US Publication 2004/0262361).

Suzuki teaches the claimed invention with the exception of wherein the member maintaining the band under tension is mainly composed of an arm mounted resiliently and rotatably on the chassis, opposing a tension applied by the printed arm to the arm under the effect of a driving speed imparted by the second motorised means, which is greater than or equal to a driving speed imparted by the first motorised means, as the means of detection are for their own part composed of an angular position sensor of the arm, for correlative slaved actuation of the first and of the second driving means and wherein the arm forms an intermediate guiding member.

St. Germain et al. teaches an arm (16) that maintains the band under tension mounted resiliently and rotatably on the chassis on the chassis and an angular detection sensor (Paragraph 008) and wherein the roll (20) forms as an intermediate guiding member.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention taught by Suzuki to include an arm and angular sensor as taught by St. Germain et al. for the purpose of readily responding to variations in web tension during processing with minimal delay of the apparatus.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA L. FERGUSON-SAMRETH whose telephone number is (571)272-2163. The examiner can normally be reached on (M-T) 6:30am-4:00pm and every other (F) 7:30am-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on 571-272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Judy Nguyen/
Supervisory Patent Examiner, Art Unit 2854

MARISSA FERGUSON-
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Examiner
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MFS